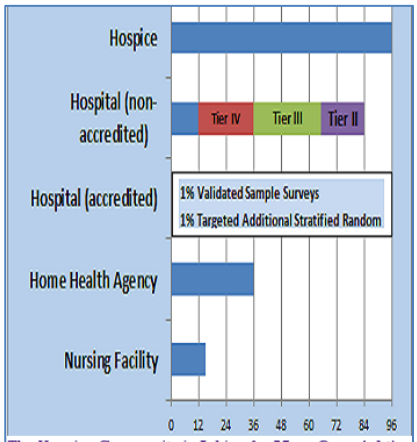
Hospice Action Network

Frequently Asked Questions on Hospice Provisions Passed in the IMPACT Act

NHPCO is thrilled that hospice program integrity provisions were passed into law as part of the IMPACT Act. Protecting the high-quality, compassionate end-of-life care that hospice provides to the dying and their loved ones is our first priority. Common sense measures such as these are critical to the modernization of the hospice benefit and ultimately benefit hospice providers by ensuring a level playing field and yielding data to inform future policy. We see the passage of these provisions as an important *first step* in this direction.

Hospice Surveys Every Three Years

Background: Under the new law, Medicare certified hospices will now have mandatory surveys every 36 months, through 2025. NHPCO has long supported the survey frequency recommended by the Office of the Inspector General (OIG). In 2007, the OIG found that hospices were receiving this type of oversight much less frequently than other Medicare providers. In August 2013, the OIG updated their report on hospice surveys and found that the frequency of recertification surveys had not improved since 2005. Additionally, in 12 states, more than 25% of hospices had not been recertified within the last six years.



The Hospice Community is Asking for **More Oversight**! In 2006, the Office of the Inspector General (OIG) found that hospices are surveyed far less than other Medicare provider communities. What was the response? **"We agree. Please survey us more."**

Implementation date: 6 months after enactment, which is once the President signs the legislation.

Won't the increased surveys cost money? Do we have to wait for the government to find the funding before this happens?

The legislation authorized and appropriated $70 million specifically for hospice surveys for the next 10 years. After that time, the policy will automatically "sunset," meaning that there will not be a requirement for hospice survey frequency nor will funding be required to be in place. If Congress and the hospice community see that the increased survey frequency is having the desired effect, the policy and funding may be extended at that time.

Who will conduct the surveys?

The Centers for Medicare and Medicaid Services will contract with the appropriate state survey agency in each state. Surveys may also be performed by accrediting agencies with deemed status, such as the Joint Commission, the Community Health Accreditation Program (CHAP), and the Accreditation Commission for Health Care (ACHC).

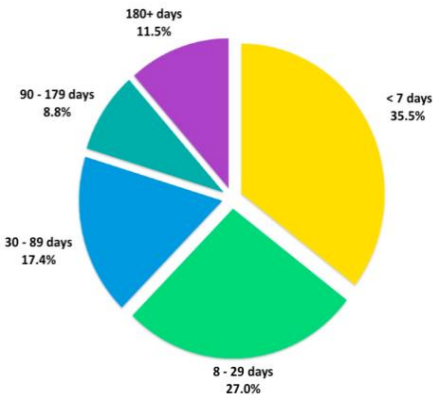
Increased Medical Review for Long Lengths of Stay

Background: In 2009, the Medicare Payment Advisory Commission (MedPAC) recommended that hospice programs with a high percentage of patients qualifying as long lengths of stay (more than 180 days) should have additional oversight through focused medical review. NHPCO supported the MedPAC recommendation and supported it again when it became law as part of the Affordable Care Act. Unfortunately, there was a drafting error that made it impossible for CMS to move forward with implementing the provision. The IMPACT Act includes a technical correction to the language so that CMS can move forward with this additional oversight.

Implementation date: CMS can begin the process as soon as the bill is enacted.

Does the new provision mean that if I have patients on service for more than 180 days that I will qualify for this level of medical review?

It's important to note that this provision applies at the hospice level, not the patient level. CMS will set a threshold, or percentage, that will trigger the medical review. Once that threshold is set, when a hospice program exceeds XX% of its patients having a length of stay of 180 days or longer, the medical review process will be triggered.



Proportion of Patients by Length of Service in 2012

Do we know what that threshold or trigger will be?

Ultimately, CMS has the authority to set this level. In NHPCO's previous conversations with MedPAC and CMS, numbers around in the 40%-60% range were discussed. So, **if** CMS selected 40%, a hospice would have **more than 40% of its patients on service for more than 180 days to** qualify for this additional level of review. We know that 2/3 of patients die within 21 days of hospice admission, so we expect that most hospice programs will not be impacted by the law.

Aligning of the Hospice Aggregate Cap with Reimbursement

Background: Since the inception of the benefit, hospice reimbursement and the aggregate financial cap have been set by two different economic indices. It means that the cap has been adjusted at a different rate than hospice reimbursement. It has also caused confusion about how the cap amount is set each year. The IMPACT Act aligns the inflation of the hospice aggregate cap with hospice reimbursement for the next 10 years.

Implementation date: Cap year beginning November 1, 2016/FY2017 (through the cap year ending October 31, 2025)

What will the common index be and why is this important?

The common index will be the hospital market basket – the same index used to set hospice inflationary reimbursement adjustments each year. The important factor is that they are aligned. So, if a reimbursement adjustment is applied to the hospital market basket, such as the productivity adjustment applied to all Medicare providers, the adjustment will apply to both hospice reimbursement as well as the expected increase to the cap amount.

Difference between Cap Increase and Payment Increase, 2006-2014

Cap Amount based on Medical Care Component of Consumer Price Index			% Difference from Previous Year	Medicare Payment Increase as published in the CR Pricer for Medicare hospice rates	Difference between Cap Increase and Payment Increase
Year	Cap Amount				
2006	$ 20,585.39			3.7%	-3.70%
2007	$ 21,410.04		4.01%	3.4%	0.61%
2008	$ 22,386.15		4.56%	3.3%	1.26%
2009	$ 23,014.50		2.81%	3.6%	-0.79%
2010	$ 23,874.98		3.74%	2.1%	1.64%
2011	$ 24,527.69		2.73%	2.6%	0.13%
2012	$ 25,377.01		3.46%	3.0%	0.46%
2013	$ 26,157.50		3.08%	1.6%[1]	1.48%
2014	$ 26,725.79		2.17%	1.7%[2]	0.47%

<u>Example</u> of Hospice Aggregate Cap upon Effective Date

	Previous Year's Cap Amount		**Marketbasket Increase**	**Cap Amount for Coming Year**
Year ABC	$26,725.79		1.70%	$ 27,180.13

[1] The FY 2013 payment rates will be the FY 2012 payment rates, increased by 1.6 percent, which is the final hospital market basket update for FY 2013 (2.6 percent) less a productivity adjustment to all Medicare providers of 0.7 percentage, and less 0.3 percentage point to hospice providers. (Change Request 7857)

[2] The FY 2014 payment rates will be the FY 2013 payment rates, increased by 1.7 percent, which is the final hospital market basket update for FY 2014 (2.5 percent) less a productivity adjustment of 0.5 percentage point applied to all Medicare providers, less 0.3 percentage point for hospice providers. (Change Request 8416)

What will this mean for my program?

The vast majority of hospices are nowhere near the aggregate cap each year and will experience absolutely no impact from this change. For hospices that are just below, at, or above cap, this will mean that they'll need to watch things a little more carefully.

How Do I Know How My Members of Congress Voted on the Bill?

The IMPACT Act, H.R. 4994 moved under a rarely used path, reserved for noncontroversial legislation, in both chambers of Congress. In the House, it was considered "Under Suspension of the Rules" meaning the bill was raised on the House Floor and if anyone had objected it would have required 2/3 of the House to vote in favor of it to pass. No Member objected, so it passed without a roll call vote. The Senate moved the House bill, H.R. 4994, through "Unanimous Consent." Senators were given advance notice of the bill and if a single Senator had objected, the bill would not have been moved to the Senate Floor for consideration. No Senator objected, so the bill went to the floor for consideration, and was also passed without a roll call vote. Since there was not a roll call vote, you will not know if your Members supported the bill. But, we are grateful that none objected!